

REMARKS

Regarding the rejection of Claims 1-14 under 35 U.S.C. 103(a) *Gunderman et al.* in view *Schneider*, Applicant respectfully traverses the rejection. Applicant has cancelled Claims 1-14 and submitted new Claims 15-23 for consideration. First, the combination of *Schneider*'s support rings which are moveable would destroy one of the main stated advantages of *Gunderman et al.* which is rigidity. Welding, soldering, etc. are permanent means for attaching something and are key to the structural integrity of the *Gunderman* invention. Secondly, the claims, as amended, claim that the second fitted piece is a separate piece from the first piece of the clamping means. *Schneider* shows that the support ring is a single piece sleeve with a set-screw type of securing means (Figure 8).

With regard to the rejection of Claim 3, the knob the Examiner relies on is the set screw mechanism to engage the notches in *Schneider*. Applicant's knob, as now claimed in new Claim 15, is positioned within said first part and is a separate element as shown in Figure 2. Also, new Claim 15 states that the first part of the clamping mechanism has a portion of its profile that is shaped to conform to the shape of the upright. The combination of the clamping mechanism having a first part, a separate second part, a knob and securing means being positively claimed as distinct elements overcomes the combination of *Gunderman* and *Schneider*.

Applicant also claims in new Claim 15 that the number of clamping mechanism must be of the same number as the number of uprights. The Examiner contends that *Gunderman* as modified inherently teaches this. Applicant has amended to state that there are at least three uprights and the same number of clamping mechanisms as the uprights. *Schneider* is used with potted plants and the device needs the soil in which it is

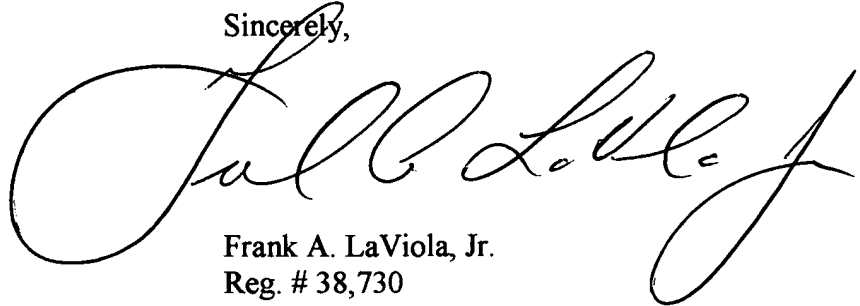
embedded to act as its support. Nowhere within the language of Schneider is the teaching of embedding the device directly in the ground and it is Applicant's contention that the combination of Gunderman and Schneider is improper since the devices function in entirely different ways.

There are many non-structural advantages to Applicants invention as claimed which must be given patentable weight under a 35 U.S.C. 103(a) rejection. First, one of Applicant's main advantages is the compact storage of the units during periods of non-use. The modular design of Applicant's invention enables the user to effectively store the device anywhere. Gunderman shows a rigid, solid, unitary construction which can not be disassembled for compact storage and must be stacked in a corner when not in use. It is clear that Applicant's invention is superior to Gunderman and also much safer to use. Gunderman shows areas of exposed wires which may injure the user if extreme caution is not used during the picking of fruit. Applicant's invention contains no sharp edges or exposed wires during use and thus is much safer to the user. Applicant's invention is also very economical in that replacement pieces can be purchased at a fraction of the price so that a broken unit can be fixed without having to scrap the entire plant support. Since the unit is modular, the same uprights can be used with a variety of different size and shaped hoops again speaking to the economy and versatility of this unit. The Gunderman unit does not lend itself to the modification of removable and positionable hoops because the device is also used for the support of potted plants. Rigidity is a key element of Gunderman and is destroyed by the modification with Schneider.

In conclusion, Applicant has added significant structural elements to new Claim 15 in an effort to expedite prosecution. New Claim 15 is not anticipated nor obvious in

view of the prior art cited and relied upon. Should the Examiner feel that Applicant's efforts do not place the application in condition for allowance, please contact the undersigned so that an Examiner's Amendment can be written to place the application in condition for allowance. The undersigned can be reached at the following phone number (607) 739-3606 extension 281.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Frank A. LaViola, Jr.'.

Frank A. LaViola, Jr.
Reg. # 38,730